

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**DANIEL LOEBSACK, ROBERT  
HASTINGS, ARIANA ROSE, and  
ERIK WISE, Each Individually  
And on Behalf Of All Others  
Similarly Situated,**

***Plaintiffs,***

**V.**

**THE DUFRESNE SPENCER GROUP,  
LLC,**

***Defendant.***

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**Civil Action No. 4:21-cv-01884**

## UNOPPOSED MOTION FOR PARTIAL EXTENSION OF DEADLINES

Defendant The Dufresne Spencer Group, LLC (“Defendant”) files this Unopposed Motion for Partial Extension of Deadlines, and respectfully shows the Court the following:

1. Plaintiffs are unopposed to the extensions sought herein.
2. This is a wage and hour case under the Fair Labor Standards Act (“FLSA”).

Specifically, Plaintiffs allege that Defendant failed to properly pay them overtime compensation under the FLSA, 29 U.S.C. § 207.

3. In addition to their individual claims, Plaintiffs also sought to bring a collective action pursuant to 29 U.S.C. § 216(b). Plaintiffs filed their Motion to Certify Class on February 1, 2022. Doc. 16. After receiving an extension, Defendants timely responded on March 15, 2022. Doc. 22. Plaintiffs filed their Reply in support on March 21, 2022. Doc. 26.

4. On June 29, 2022, Plaintiffs filed their Unopposed Motion for Continuance seeking to continue the discovery deadline and all other pre-trial deadlines until this Court ruled on Plaintiffs' Motion to Certify Class. Doc. 34. This Court granted Plaintiffs' Unopposed Motion for Continuance on June 30, 2022. Doc. 35.

5. On July 11, 2022, Magistrate Judge Bryan recommended that Plaintiffs' Motion to Certify Class be granted in part and denied in part. Doc. 36. Specifically, Magistrate Judge Bryan recommended that the following class be collectively certified:

All retail sales associates or product specialists classified as nonexempt who worked in Texas and were paid under the HCH legacy compensation plan of earning an hourly rate plus commissions and bonuses and worked over 40 hours in any week within the past three years.

6. Judge Sim Lake adopted Magistrate Judge Bryan's recommendations on July 26, 2022. Doc. 39.

7. The deadline for the potential class members to join was on November 2, 2022.

8. In total, forty-seven (47) Opt-in Plaintiffs joined the case.

9. Since the close of the opt-in deadline in November, Defendant served written discovery on all 47 Opt-in Plaintiffs to determine which sample of Plaintiffs it will depose.

10. On February 28, 2023, Plaintiffs served some, but not all, of their written discovery responses. On July 10, 2023, Defendant sent a deficiency letter requesting dismissal of certain Plaintiffs and supplementation of Plaintiffs' written discovery responses. Plaintiffs' counsel has indicated that he would file a stipulation of dismissal for Named Plaintiff Ariana Rose and a notice of withdrawal of consents to join by 12 Opt-in Plaintiffs. In addition, on August 6 and 7, 2023, the remaining Plaintiffs served some, but not all, of their supplemental written discovery responses.

11. On September 14, 2023, Defendant sent a second deficiency letter requesting supplementation of Plaintiffs' written discovery responses. As of the date of this filing, Defendant is still waiting on supplemental written discovery responses from several Opt-in Plaintiffs.

12. Defendant intends to schedule the depositions of the Named Plaintiffs and certain Opt-in Plaintiffs once it receives all written discovery from Plaintiffs.

13. The Parties are also in the process of scheduling mediation in October 2023. As a result, the Parties need additional time to complete discovery after mediation. A continuance of the remaining deadlines in this case is necessary. Moreover, this continuance will not prejudice the Named Plaintiff and Opt-in Plaintiffs' rights under the FLSA because their statute of limitations are already established and preserved based on the date they joined the lawsuit.

14. Defendant respectfully requests that the Court grant changes to the following case management deadlines as follows:

- a. **Discovery Deadline:** December 6, 2023
- b. **Pretrial Dispositive Motions:** January 19, 2024
- c. **All Other Pretrial Motions Including Motions In Limine:** February 16, 2024

15. The deadline for the Joint Pretrial Order and Docket Call remain unchanged.

16. This is the third request for an extension. This extension is not sought for the purposes of delay, but so that justice may be done.

For the foregoing reasons, Defendant respectfully requests that the Court grant its Motion for Extension of Deadlines. Defendant further request all additional relief to which it may be entitled.

Respectfully submitted,

**NORTON ROSE FULBRIGHT US LLP**

/s/ Kimberly Cheeseman

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*Attorneys for Defendant Dufresne Spencer Group,  
LLC*

**CERTIFICATE OF CONFERENCE**

Counsel for Defendant conferred with Plaintiffs' counsel on September 18, 2023.

Plaintiffs' counsel indicated that he is unopposed to this motion.

**CERTIFICATE OF SERVICE**

This pleading was served on the following opposing counsel via the Court's CM/ECF service in compliance with Rule 5 of the Federal Rules of Civil Procedure on September 18, 2023.

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/s/ Kimberly Cheeseman

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